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EXAMINER

FRENEL, VANEL

ART UNIT

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3687

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/648,861	<b>Applicant(s)</b> SARTHI ET AL.	
	<b>Examiner</b> VANEL FRENEL	<b>Art Unit</b> 3687	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 January 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 42-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 42-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **Notice to Applicant**

1. This communication is in response to the RCE filed on 1/29/08. Claims 42, 50 and 53 have been amended. Claims 42-56 are pending.

### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/19/08 has been entered.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 42-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan et al (5,799,286) hereinafter Morgan in view of Ulwick (6,115,691) and further in view of Bruce (2002/0049621).

(A) As per claim 42, Morgan discloses a computer-implemented method of managing a process, said computer-implemented method comprising: identifying activities that comprise the process (See Morgan, Co1.7, lines 14-44); identifying measurable drivers associated with a cost for each of the activities (See Morgan, Col.7, lines 14-44); identifying bridge variables, wherein each bridge variable is a driver that is relevant to more than one of said activities (See Morgan, Co1.20, lines 13-61).

Morgan does not explicitly disclose that the method having establishing a relationship between various drivers by representing each non-bridge variable driver in terms of one or more of said bridge variables only; using said relationship, representing each of said activities at least as a function of one or more of said bridge variables, thereby reflecting interdependence between said activities; and generating a model of said process at least as a function of said bridge variables by combining representations of all activities comprising said process.

However, these features are known in the art, as evidenced by Ulwick. In particular, Ulwick suggests that the method having establishing a relationship between various drivers by representing each non-bridge variable driver in terms of one or more of said bridge variables only (See Ulwick, Co1.1, lines 41-67; Co1.3, lines 27-67); using said relationship, representing each of said activities at least as a function of one or more of said bridge variables, thereby reflecting interdependence between said activities (See Ulwick, Co1.1, lines 41-67 to Col.2, line 12); and generating a model of said process at least as a function of said bridge variables by combining representations

of all activities comprising said process (See Ulwick, Co1.1, lines 14-67 to Co1.2, line 12).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Ulwick within the system of Morgan with the motivation of providing systematically accelerating the evolution of a process or satisfying a set of desired outcomes. A process is a series of activities or events that produce a desired result, which may comprise a plurality of desired outcomes. All strategies, products or services as well as other solutions are designed to improve or enable a process (See Ulwick, Co1.9, lines 5-17).

As best understood, Morgan and Ulwick disclose all the limitations above. The combination of Morgan and Ulwick does not explicitly disclose “outputting, from said model, a predictive cost for the process.

However, this feature is known in the art, as evidenced by Bruce. In particular Bruce suggests “outputting, from said model, a predictive cost for the process (See Bruce, Page 1, Paragraph 0008; Page 15, Paragraphs 0253-0257; Page 16, Paragraphs 0293-0295).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Bruce within the collective teachings of Ulwick and Morgan with the motivation of mapping any process comprising activities into a process flow which represents a model for the starting and duration of activities relative to each other so that a scheduling driver may be derived for the process (See Bruce, Page 4, Paragraph 0044).

(B) As per claim 43, Ulwick discloses the computer-implemented method further comprising: selecting a plurality of constraints (See Ulwick, Fig.17, element 211; Co1.22, lines 37-67), and wherein generating said model of said process includes generating said model as a function of said bridge variables and said plurality of constraints (See Ulwick, Fig.17, element 211; Co1.22, lines 37-67).

The motivation for combining the respective teachings of Morgan, Ulwick and Bruce are as discussed above in the rejection of claim 42, and incorporated herein.

(C) As per claim 44, Ulwick discloses the computer-implemented method further comprising: optimizing said model in view of said plurality of constraints using one of the following: a linear programming algorithm (See Ulwick, Co1.22, lines 37-67), a mixed-integer linear programming algorithm, and a mixed-integer nonlinear programming algorithm (See Ulwick, Co1.3, lines 34- 65); and reconstructing a physical representation of said activities and said drivers using said optimized model (See Ulwick, Co1.17, lines 21-67).

The motivation for combining the respective teachings of Morgan, Ulwick and Bruce are as discussed above in the rejection of claim 42, and incorporated herein.

(D) As per claim 45, Bruce discloses the computer-implemented method wherein said reconstructing includes calculating a value of each non-bridge variable driver using values of corresponding bridge variables only, and calculating a value of each said

activity using values calculated for each bridge variable driver and non-bridge variable driver of said activity (See Bruce, Figs.5-7, Fig.37, Page 8, Paragraphs 0114-0117).

The motivation for combining the respective teachings of Morgan, Ulwick and Bruce are as discussed above in the rejection of claim 42, and incorporated herein.

(E) As per claim 46, Ulwick discloses the computer-implemented method further comprising: revising said model using the results from said optimization step (See Ulwick, Co1.21, lines 48-56).

The motivation for combining the respective teachings of Morgan, Ulwick and Bruce are as discussed above in the rejection of claim 42, and incorporated herein.

(F) As per claim 47, Ulwick discloses the computer-implemented method wherein selecting said plurality of constraints includes selecting economic and non-economic constraints (See Ulwick, Fig.17, element 211; Col.22, lines 37-67).

The motivation for combining the respective teachings of Morgan, Ulwick and Bruce are as discussed above in the rejection of claim 42, and incorporated herein.

(G) As per claim 48, Ulwick discloses the computer-implemented method wherein identifying measurable drivers includes identifying economic and non-economic drivers (See Ulwick, Fig.17, element 211; Co1.22, lines 37-67).

The motivation for combining the respective teachings of Morgan, Ulwick and Bruce are as discussed above in the rejection of claim 42, and incorporated herein.

(H) As per claim 49, Ulwick discloses the computer-implemented method wherein identifying said drivers includes identifying at least one of fixed and variable components of each said driver, and wherein said method further comprising: costing each said measurable driver for said at least one of fixed and variable components thereof (See Ulwick, Col. 17, lines 30-43).

The motivation for combining the respective teachings of Morgan, Ulwick and Bruce are as discussed above in the rejection of claim 42, and incorporated herein.

(I) As per claim 50, Morgan discloses a system, comprising: a computer (See Morgan, Co1.3, lines 55-64); input and output devices in communication with said computer (See Morgan, Co1.3, lines 64 to Co1.4, line 11); and a memory encoded with a computer program (See Morgan, Co1.4, lines 44-60), which, when executed by said computer, causes said computer to perform the following: allow a user to identify activities that comprise a process, further allow said user to identify measurable drivers associated with a cost for each of the activities, identify bridge variables, wherein each bridge variable is a driver that is relevant to more than one of said activities (See Morgan, Col.6, lines 14-63).

Morgan does not explicitly disclose that the system having establish a relationship between various drivers by representing each non-bridge variable driver in



terms of one or more of said bridge variables only, using said relationship, represent each of said activities at least as a function of one or more of said bridge variables, thereby reflecting interdependence between said activities, and generate a model of said process at least as a function of said bridge variables by combining representations of all activities comprising said process.

However, these features are known in the art, as evidenced by Ulwick. In particular, Ulwick suggests that the method having establish a relationship between various drivers by representing each non-bridge variable driver in terms of one or more of said bridge variables only (See Ulwick, Co1.1, lines 41-67; Co1.3, lines 27-67), using said relationship, represent each of said activities at least as a function of one or more of said bridge variables, thereby reflecting interdependence between said activities (See Ulwick, Co1.1, lines 41-67 to Col.2, line 12), and generate a model of said process at least as a function of said bridge variables by combining representations of all activities comprising said process (See Ulwick, Co1.1, lines 14-67 to Co1.2, line 12).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Ulwick within the system of Morgan with the motivation of providing systematically accelerating the evolution of a process or satisfying a set of desired outcomes. A process is a series of activities or events that produce a desired result, which may comprise a plurality of desired outcomes. All strategies, products or services as well as other solutions are designed to improve or enable a process (See Ulwick, Col.9, lines 5-17).

As best understood, Morgan and Ulwick disclose all the limitations above. The combination of Morgan and Ulwick does not explicitly disclose “outputting, from said model, a predictive cost for the process.

However, this feature is known in the art, as evidenced by Bruce. In particular Bruce suggests “outputting, from said model, a predictive cost for the process (See Bruce, Page 1, Paragraph 0008; Page 15, Paragraphs 0253-0257; Page 16, Paragraphs 0293-0295).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Bruce within the collective teachings of Ulwick and Morgan with the motivation of mapping any process comprising activities into a process flow which represents a model for the starting and duration of activities relative to each other so that a scheduling driver may be derived for the process (See Bruce, Page 4, Paragraph 0044).

(J) Claim 53 differs from claims 42 and 50 by reciting a computer-readable data storage medium containing program instructions, which, when executed by a processor, cause said processor to perform the following.

As per this limitation, it is noted that Morgan discloses allow a user to identify activities that comprise a process (See Morgan, Col.7, lines 14-44); further allow said user to identify measurable drivers associated with a cost for each of the activities (See Morgan, Col.7, lines 14-44); identify bridge variables, wherein each bridge variable is a driver that is relevant to more than one of said activities (See

Morgan, Col.20, lines 13-61) and Ulwick discloses establish a relationship between various drivers by representing each non- bridge variable driver in terms of one or more of said bridge variables only (See Ulwick, Co1.1, lines 41-67; Co1.3, lines 27-67); using said relationship, represent each of said activities at least as a function of one or more of said bridge variables, thereby reflecting interdependence between said activities (See Ulwick, Co1.1, lines 41-67 to Co1.2, line 12); and generate a model of said process at least as a function of said bridge variables by combining representations of all activities comprising said process (See Ulwick, Co1.1, lines 41-67 to Col.2, line 12); and Bruce discloses output, from said model, a predictive cost for the process (See Bruce, Page 1, Paragraph 0008; Page 15, Paragraphs 0253-0257; Page 16, Paragraphs 0293-0295).

Thus, it is readily apparent that these prior art systems utilize a computer-readable data storage medium containing program instructions, which, when executed by a processor to perform their specified function.

The remainder of claim 53 is rejected for the same reasons given above for claims 42 and 50, and are incorporated herein.

(K) Claims 51-52 and 54-55 recite the underlying process steps of the elements of claims 44-45, and respectively. As the various elements of claims 44-45 have been shown to be either disclosed by or obvious in view of the collective teachings of Morgan, Ulwick and Bruce, it is readily apparent that the apparatus disclosed by the applied prior art performs the recited underlying functions. As such, the limitations recited in claims

51- 52 and 54-55 are rejected for the same reasons given above for the method claims 44- 45, and incorporated herein.

(L) As per claim 56, Ulwick discloses the storage medium wherein said program instructions, upon execution, cause said processor to cost each said driver identified by said user (See Ulwick, Co1.22, lines 37-67 to Col.23, line 13).

### ***Response to Arguments***

5. Applicant's arguments filed 1/19/08 with respect to claims 42-56 have been considered but are moot in view of the new ground(s) of rejection.

In response, all of the limitations which Applicant disputes as missing in the applied references, including the features newly added in the 1/19/08 amendment, have been fully addressed by the Examiner as either being fully disclosed or obvious in view the teachings of Morgan, Ulwick and Bruce based on the logic and sound scientific reasoning of one ordinarily skilled in the art at the time of the invention, as detailed in the remarks and explanations given in the preceding sections of the present Office Action and in the prior Office Action, and incorporated herein. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In addition, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it

that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not the applied art teaches system and method for systems integration (6,950,802).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vanel Frenel whose telephone number is 571-272-6769. The examiner can normally be reached on 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Gart can be reached on 571-272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3687

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Vanel Frenel/**

**Examiner, Art Unit 3687**

**March 28, 2008**